

**Title 10: COMMERCE AND TRADE**  
**Chapter 9: ALLOCATION OF STATE CEILING ON TAX-EXEMPT BONDS**

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**Maine Revised Statutes**  
**Title 10: COMMERCE AND TRADE**  
**Chapter 9: ALLOCATION OF STATE CEILING ON TAX-EXEMPT BONDS**

**§361. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 594, §1 (NEW).]

**1. Bond.** "Bond" means a revenue obligation security, bond, note, debenture, certificate or other evidence of indebtedness of the State or any political subdivision of the State.

[ 1985, c. 594, §1 (NEW) . ]

**2. Carryforward.** "Carryforward" means that portion of the state ceiling for any calendar year which is unallocated to specific bond issues during that calendar year and which is available to be carried forward to be used in later years under the United States Code, Title 26.

[ 1987, c. 413, §1 (AMD) . ]

**3. Federal formula.** "Federal formula" means the formula or formulas for allocation of the state ceiling now or hereafter established under the United States Code, Title 26.

[ 1985, c. 594, §1 (NEW) . ]

**4. Solid waste energy project.** "Solid waste energy project" means a project designed to convert solid waste to electricity or steam.

[ 1985, c. 594, §1 (NEW) . ]

**5. State ceiling.** "State ceiling" means the annual dollar volume cap on the issuance of tax-exempt bonds now or hereafter imposed on the State and its agencies and governmental subdivisions by the United States Code, Title 26.

[ 1985, c. 594, §1 (NEW) . ]

**6. Tax-exempt bond.** "Tax-exempt bond" means a bond the interest on which is not included in the gross income of the owners for federal income tax purposes pursuant to the United States Code, Title 26, Section 103.

[ 1987, c. 413, §2 (AMD) . ]

**SECTION HISTORY**

1985, c. 594, §1 (NEW). 1987, c. 413, §§1,2 (AMD).

**§362. LEGISLATIVE PURPOSE**

The Legislature finds and declares that the availability of financing through use of tax-exempt bonds is an effective and necessary tool for economic development, ensuring an adequate supply of affordable housing, providing for loans for higher education and promoting and improving the health, safety, welfare and quality of life of the people of the State. Because the availability of the financing is largely determined by the United States Internal Revenue Code and because there is a statewide need to assure that the limited amount

of tax-exempt financing available is used in the most efficacious manner by issuers of bonds in the State to provide the greatest benefits to the State, the Legislature determines that the legislative purpose of promoting the best use of a limited resource can be best met by authorizing the Legislature and certain designated issuers of bonds to allocate available amounts of tax-exempt bond authority among issuers. This chapter is intended to apply to the federal formulas in effect on the effective date of this chapter, as well as to any unified volume limitation that may be enacted subsequently by the United States Congress. Any action by the designated issuers pursuant to this chapter is expressly delegated to those issuers by the Legislature for purposes of determining whether such action is authorized by the United States Code, Title 26. [1987, c. 413, §3 (AMD) .]

#### SECTION HISTORY

1985, c. 594, §1 (NEW). 1987, c. 413, §3 (AMD).

## §363. ALLOCATION OF THE STATE CEILING

### 1. Formula and procedure.

[ 1987, c. 413, §4 (RP) .]

**1-A. Procedure.** For each calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure supersedes the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers; however, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from September 1st to and including December 31st of any calendar year, and at any other time that the Legislature is not in session, a group consisting of a representative of each of the issuers specifically identified in subsections 4, 5, 6, 7, 8 and 8-A; and a representative of the Governor designated each year by the Governor may, by written agreement executed by no fewer than 5 of the 6 voting representatives, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only. In no event may any issuer have more than one vote. If an issuer is allocated a portion of the state ceiling in more than one category, the written agreement must be executed by no fewer than 4 of the 6 voting representatives. Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the records of the group of representatives described in this subsection are public records and the meetings of the group of representatives described in this subsection are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

[ 2005, c. 425, §22 (AMD) .]

### 2. Allocations by the Governor and the Legislature.

[ 1987, c. 413, §4 (RP) .]

**2-A. Recommendation of Governor and issuers.** At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. To assist the Governor in making a recommendation of proposed allocations of the state ceiling on private activity bonds, the group of 7 representatives described in subsection 1-A shall make a recommendation regarding allocation or reallocation of the state ceiling. In order to assist the group in making its recommendation and to assist the Governor and the Legislature, the Department of Administrative and Financial Services, in consultation with the Governor's Office of Policy and Management, shall prepare an annual analysis of the State's economic

outlook, prevailing interest rate forecasts related to tax-exempt financing by the issuers specifically identified in subsections 4 to 8, the availability to those issuers of alternative financing from sources that do not require an allocation of the state ceiling and the relationship of these factors and various public policy considerations to the allocation or reallocation of the state ceiling. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds within the State designated in this section, the recommendations of the group of representatives described in subsection 1-A and the annual analysis of the Department of Administrative and Financial Services.

[ 2011, c. 655, Pt. DD, §8 (AMD); 2011, c. 655, Pt. DD, §24 (AFF) .]

### **3. Emergency allocation.**

[ 1987, c. 769, Pt. A, §41 (RP) .]

**4. Allocation to Maine State Housing Authority.** That portion of the state ceiling allocated under this section to the category of bonds for housing or housing-related purposes must be allocated to the Maine State Housing Authority, which may further allocate that portion of the state ceiling to bonds for housing-related projects that require an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine State Housing Authority to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

[ 1999, c. 728, §3 (AMD) .]

**5. Allocation to the Treasurer of State.** That portion of the state ceiling allocated under this section to the category of general obligation bonds of the State must be allocated to the Treasurer of State, who may further allocate that portion of the state ceiling to bonds of the State requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Treasurer of State to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

[ 1999, c. 728, §3 (AMD) .]

**6. Allocation to the Finance Authority of Maine.** That portion of the state ceiling allocated to the category of bonds that are limited obligations of the issuer payable solely from the revenues of the projects financed with the proceeds of the bonds, other than for housing-related projects or issues included in an issue of the Maine Municipal Bond Bank, as well as that portion of the state ceiling allocated to bonds authorized to be issued by the Finance Authority of Maine pursuant to Title 20-A, chapter 417-B, must be allocated to the Finance Authority of Maine, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Finance Authority of Maine to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

[ 1999, c. 728, §4 (AMD) .]

**7. Allocation to the Maine Municipal Bond Bank.** That portion of the state ceiling allocated to the category of bonds that are general obligations of issuers within the State, other than the State; that are included in bond issues of the Maine Municipal Bond Bank; that are included in bond issues of the Maine Public Utility Financing Bank; or that are qualified redevelopment bonds as defined in the United States Code, Title 26, must be allocated to the Maine Municipal Bond Bank, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine Municipal Bond Bank to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

[ 1999, c. 728, §5 (AMD) .]

**8. Allocations to the Maine Educational Loan Authority.** That portion of the state ceiling allocated to the issuance of bonds by the Maine Educational Loan Authority pursuant to Title 20-A, chapter 417-A must be allocated to the Maine Educational Loan Authority.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans, an issuer or lender must provide to the appropriate agency within the Department of Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Bureau of Consumer Credit Protection for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections. [2003, c. 112, §2 (AMD); 2007, c. 273, Pt. B, §5 (REV); 2007, c. 695, Pt. A, §47 (AFF).]

B. [1999, c. 443, §2 (NEW); T. 10, §363, sub-§8, ¶ B (RP).]

B-1. All education loans made under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 that are purchased or originated with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds must be guaranteed by the state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1, provided that this requirement does not apply to serial loans of a borrower that are guaranteed by a different guarantee agency and acquired or financed with tax-exempt bond proceeds prior to the effective date of this paragraph. The state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1 shall use its best efforts to provide competitive rates for the guarantee function. [2003, c. 112, §2 (AMD).]

[ 2003, c. 112, §2 (AMD); 2007, c. 273, Pt. B, §5 (REV); 2007, c. 695, Pt. A, §47 (AFF) .]

**8-A. Allocations to issuer of bonds for purchase of education loans.** That portion of the state ceiling allocated to the categories of bonds providing funds for the purposes of an entity designated pursuant to Title 20-A, section 11407, must be allocated to the entity designated pursuant to Title 20-A, section 11407.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans, an issuer or lender must provide to the appropriate agency within the Department of Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions, Department of Professional and Financial Regulation if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Bureau of Consumer Credit Protection, Department of Professional and Financial Regulation for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau

of Financial Institutions and the Bureau of Consumer Credit Protection for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections. [2003, c. 112, §3 (NEW); 2007, c. 273, Pt. B, §5 (REV); 2007, c. 695, Pt. A, §47 (AFF).]

B. [2007, c. 520, §1 (RP).]

[ 2007, c. 520, §1 (AMD); 2007, c. 695, Pt. A, §47 (AFF) .]

**9. Use of carryforward.** In the event that any issuer has made a carryforward election under the United States Code, Title 26, Section 146(f), as amended, the issuer shall use, to the extent possible and consistent with the purpose for which the carryforward was elected, the carryforward for issues subject to the state ceiling prior to allocating any portion of the state ceiling for the applicable calendar year to the issue. To the extent permitted by federal law, a group consisting of a representative of each of the issuers specifically identified in subsections 4 to 7; a representative of a corporation created pursuant to former Title 20, section 2237 and Title 20-A, section 11407; and a representative of the Governor designated each year by the Governor may reallocate, by written agreement executed by no fewer than 4 of the 5 voting representatives, carryforward amounts from one of the specific issuers designated in this section to another specific issuer.

[ 1999, c. 728, §7 (AMD) .]

**10. Allocation for benefit of State.** All of the allocation of the state ceiling must be used for a purpose that benefits individuals, communities or businesses in this State. For purposes of this subsection, a bond issuance is presumed to benefit individuals, communities or businesses in this State if it benefits business operations located in this State, residents of this State, students attending institutions of higher education in this State, residents of this State attending institutions of higher education outside this State, municipalities in this State or programs predominantly for the provision of benefits for residents of this State. A student eligible to receive the benefit of a portion of the state ceiling remains eligible for student loans notwithstanding any changes in residency or institution attended.

[ 2007, c. 520, §2 (AMD) .]

**11. Annual review.** By March 15th of each year, each issuer identified in subsections 4 to 8 shall deliver a report to the Governor, the group of representatives described in subsection 1-A and the joint standing committee of the Legislature having jurisdiction over business and economic development matters. Each report must include, without limitation, a review of what bonds have been issued in the most recent year, how the state ceiling was allocated or carried forward, a demonstration of the benefits to the State of the allocation of the state ceiling to such issuer for the most recent year and a demonstration that allocation of the state ceiling is necessary to fulfill an unmet need for financing by the private sector. In addition, each report must be accompanied by the most recent annual audited financial statements of the issuer and by a letter from an independent accountant addressing the savings attributable to the use of tax-exempt financing and how that savings was passed on to the entities or individuals benefiting from the bond proceeds.

[ 1999, c. 728, §8 (AMD) .]

#### SECTION HISTORY

1985, c. 594, §1 (NEW). 1987, c. 3, §§1,2 (AMD). 1987, c. 413, §4 (RPR). 1987, c. 668, §1 (AMD). 1987, c. 769, §§A41,A42 (AMD). 1987, c. 807, §2 (AMD). 1989, c. 224, §§1,2 (AMD). 1989, c. 502, §A27 (AMD). 1989, c. 812, §1 (AMD). 1991, c. 603, §2 (AMD). 1993, c. 671, §1 (AMD).

1999, c. 443, §§1-4 (AMD). 1999, c. 728, §§1-8 (AMD). 1999, c. 728, §20 (AFF). 2001, c. 44, §11 (AMD). 2001, c. 44, §14 (AFF). 2003, c. 112, §§1-3 (AMD). 2003, c. 385, §1 (AMD). 2005, c. 425, §22 (AMD). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 273, Pt. B, §5 (REV). 2007, c. 520, §§1, 2 (AMD). 2007, c. 695, Pt. A, §47 (AFF). 2011, c. 655, Pt. DD, §8 (AMD). 2011, c. 655, Pt. DD, §24 (AFF). MRSA T.10 ., §363/8/B (AMD).

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